

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DONG YUAN and XUANHAO XU, Individually
and on Behalf of All Other Employees Similarly
Situated,

Plaintiffs,

-against-

& HAIR LOUNGE INC., & HAIR LOUNGE II
INC., MIN FEI CHEN a/k/a Wendy Chen, and
CHEN LUNG LU a/k/a Edison Lu, JOHN DOE
#1-10 and JANE DOE #1-10,

Defendants.

ANALISA TORRES, District Judge:

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/13/2022

18 Civ. 11905 (AT)

ORDER

The Court has reviewed Defendants' letter dated October 12, 2022. ECF No. 154. Defendants request that the trial scheduled for November 21, 2022, be adjourned because Defendant Chen Lung Lu, a "key witness for the trial, went back to China earlier this year to take care of his family member who is in critical medical condition." *Id.* at 1. Defendants' letter states that, as of October 3, 2022, Mr. Lu "is unable to return to the United States" due to China's "COVID regulations." *Id.* Mr. Lu declares that he is "actively exploring possibilities to book [a] plane ticket to return to the United States" and asks "that the Court adjourn the trial date until [he] return[s] to the United States." ECF No. 154-1 ¶¶ 5, 7. Plaintiffs oppose Defendants' request to adjourn the trial. ECF No. 154.

The Court has sought to set trial for this action for over a year. *See, e.g.*, ECF Nos. 121, 139, 141. When the Court attempted to set a trial date in 2021, Defendants notified the Court that Mr. Lu was in "Taiwan visiting his father, who [was] hospitalized [and] . . . kept in intensive care," and would therefore "not be available for trial in the first quarter of 2022." ECF No. 136. At the time, it was expected that Mr. Lu would "return around March [2022] subject to [the] travel policy and flight[s] available between Taiwan and the United States." *Id.* Due to Mr. Lu's unavailability, the Court sought to schedule trial in the second, third, and fourth quarters of 2022 as noted in orders dated November 16, 2021, ECF No. 137, and March 4, 2022, ECF No. 141.

On July 11, 2022, the Court set November 21, 2022, as the trial date. ECF No. 146. On August 2, 2022, the Court reiterated November 21, 2022, as the trial date for this action. ECF No. 148. Between the Court's July 11, 2022 order and Defendants' letter dated October 12, 2022, the parties filed several joint submissions related to the upcoming trial. ECF Nos. 147, 149, 153.

Defendants waited until October 12, 2022, about a month before the final pretrial conference scheduled for November 15, 2022, to seek an adjournment of trial. Defense counsel represents that, "[a]lthough [he] periodically follow[s] up with [his] client regarding his possible

return[] date, it is uncertain . . . when [Mr. Lu] will be able to return to the United States.” ECF No. 154 at 1.

Defendants’ request for an adjournment is untimely. Defendants have known that trial would be scheduled for 2022 for almost a year, and have more specifically known about the November 21, 2022 trial date for about four months. Mr. Lu is directed to return to the United States for trial, which shall commence on **November 21, 2022**.

Accordingly, Defendants’ request to adjourn the trial is DENIED.

SO ORDERED.

Dated: October 13, 2022
New York, New York



ANALISA TORRES
United States District Judge